



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

TRG
Docket No: 1637-00
19 October 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 11 October 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that on 19 April 1994, while serving as an ensign stationed at the University of the Health Sciences, you received nonjudicial punishment (NJP). The NJP documentation shows that you were found guilty as follows::

Violation of Article 121 of the UCMJ (wrongful appropriation) in that, on or about 12 March 1994, at Andrews Air Force Base Army Air Force Exchange Services (AAFES), you wrongfully appropriated a computer tool kit, of a value of \$17.95, the property of AAFES.

You were awarded a \$500 forfeiture of pay and a letter of admonition. In letter reporting the NJP, it was noted that at no time did you deny taking the tool kit and that you consistently expressed remorse for your actions. Since the NJP you have served in an excellent manner and are a qualified flight surgeon.

In your application you state that you failed of selection by the FY 2000 LCDR selection board even though there was a 100% promotion opportunity. You contend, in effect, that it was not intended that the NJP be a career ending event and that your

subsequent excellent service and conduct should be a basis for removal of the NJP from your record. In support of your request you have submitted a letter from the retired admiral who imposed NJP. He states, in part, as follows:

... I am certain that the incident which provoked the letter was out of character and in no way reflects your current value to the U.S. Navy. It is clear that you have learned from that single mistake. I do not think that an isolated incident should block the career of a fine young medical officer. At this time I would support removal of my letter from your record. ...

You have also submitted a letter of support from a retired Surgeon General of the Navy and the current President of the Uniformed Services University of the Health Sciences. This admiral states, in part, as follows:

... Had the University thought that your offense was severe enough to end your career, we would have disenrolled you from the school and recommended that the Navy administratively separate you. We did not want nor did we intend to ruin your career. In fact, the opposite was true. Clearly, you have learned a valuable lesson and become extremely productive, foreshadowing a potentially outstanding career. It is a shame that this action intended as a valuable disciplinary and learning tool has been perverted to effectively terminate your career.

As the former Surgeon General of the Navy, I can assure you and anyone who reads this letter that we need officers of your ability; I am confident of your value to the Navy. We can ill afford to throw away such a promising career particularly after we have invested so much by way of training. I most strongly recommend that this punitive letter be removed from your file and that you be promoted immediately.

In addition, you have submitted several other letters attesting to your character and ability as a medical officer. Copies of these letter were apparently sent to the selection board. The Board was aware that since your application you have been selected for LCDR (O-4) by the FY 2001 selection board.

The Board was aware that there is no provision in the regulations which would allow the removal of an NJP based solely on the passage of time or subsequent excellent performance of duty. Further, similar applications have been denied in the past. Since it is proper to hold commissioned officers to a high standard of conduct, the Board concluded that the NJP should not

be removed from your record. The Board further concluded that since the NJP will remain in the record, there is no basis to conclude that your initial failure of selection was improper and there is no basis to backdate your promotion to LCDR.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director